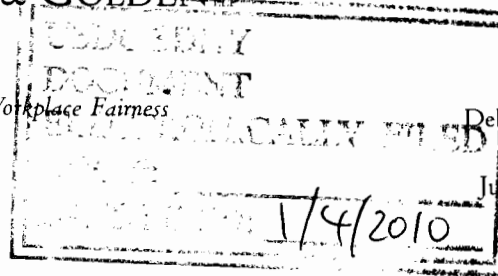
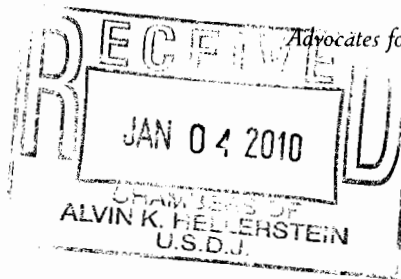


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December 31, 2009

Via Hand Delivery

The Honorable Alvin K. Hellerstein
United States District Court Judge for the
Southern District of New York
United States Courthouse
500 Pearl Street
New York, New York 10007

*Denied w/out prejudice
Proceeding notice 1/4/10*

Re: Benavidez et al. v. Plaza Mexico, Inc. et al., 09-5076 (AKH) (THK);
Paez et al. v. Plaza Mexico, Inc. et al., 09-9574 (AKH) (THK)

Dear Judge Hellerstein,

We represent the Plaintiffs, current and former workers at Mama Mexico restaurants in New York and New Jersey, in the above-referenced wage and hour putative class and collective actions.

On December 24, 2009, Defendant Plaza Mexico, Inc. filed a voluntary petition for Chapter 11 bankruptcy in the Bankruptcy Court for the Southern District of New York. A copy of the bankruptcy petition is attached hereto as Exhibit A. We assume that the automatic stay provisions of 11 U.S.C. § 362(a)(1) will apply to stay any further proceedings against Plaza Mexico, Inc.

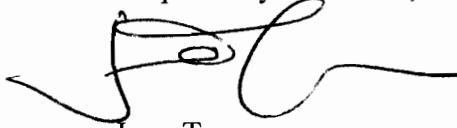
We write to request that the Court allow this action to proceed against all other Defendants, including the individual defendants, none of whom are named as debtors in the bankruptcy filing. See *Chu Chung v. New Silver Palace Rest.*, 246 F. Supp. 2d 220 (S.D.N.Y. 2002) (Hellerstein, J.) ("The automatic stay imposed by section 362(a)(1) of the Bankruptcy Code, 11 U.S.C. § 362(a)(1) affects only [the corporate debtor]; it does not apply to plaintiff's claims against the restaurant's non-debtor co-defendants.") (citing *Nippon Fire & Marine Ins. Co., Ltd. v. Skyway Freight Sys., Inc.*, 235 F.3d 53, 58 (2d Cir. 2000)). In particular, Plaintiffs respectfully request that the Court proceed to certify the class and collective actions against all non-debtor corporate and individual Defendants consistent with the terms of the Proposed Order submitted by the parties on December 22, 2009. The voluntary filing of one Defendant's bankruptcy petition should not prevent Plaintiffs from proceeding with their claims on a class-wide basis, especially when, according to the debtor's bankruptcy counsel, the restaurant remains

open and expects to “be back up to speed relatively quickly.” *See* Adrienne Pasquarelli, *No holiday cheer for Mexican Eatery*, Crain’s New York Business, Dec. 28, 2009, <http://www.craigslist.com/article/20091228/SMALLBIZ/912289991> (Exhibit B).

We also request that the Court allow Plaintiffs to continue to file consent forms from individuals wishing to opt in to the FLSA collective action. Although the automatic stay tolls all statutes of limitation as to the debtor, they continue to run vis-à-vis the other Defendants. *See Romero v. Flaum Appetizing Corp.*, 07 Civ. 7222, 2009 U.S. Dist. LEXIS 80498, *5-6 (S.D.N.Y. Aug. 17, 2009) (statute of limitations runs until each opt-in plaintiff files a consent with the Court). Plaintiffs further request that the Court deem any consent forms filed after the automatic stay is initiated to be filed as to the non-debtor entities only. Alternatively, Plaintiffs request that the Court toll the statutes of limitations for potential opt-in Plaintiffs as to all Defendants so that Plaintiffs are not required to file consents and risk violating the automatic stay in order to preserve their claims.

We thank the Court for its attention. Plaintiffs are prepared to appear and discuss this matter should the Court deem it necessary.

Respectfully submitted,



Juno Turner

Enclosure

cc: Keith Gutstein, Esq. (via email)
Jeffrey A. Meyer, Esq. (via email)
Robert M. Sasloff, Esq. (via email and first class mail)
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